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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

13 IN RE: HIGH-TECH EMPLOYEE
14 ANTITRUST LITIGATION

15 THIS DOCUMENT RELATES TO:
16 ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

**EXHIBIT 3 TO DECLARATION OF
LIN W. KAHN IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFFS' SUPPLEMENTAL
MOTION FOR CLASS
CERTIFICATION**

[REDACTED PUBLIC VERSION]

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION

4
5 IN RE: HIGH-TECH EMPLOYEE)
6 ANTITRUST LITIGATION)
7) No. 11-CV-2509-LHK
8 THIS DOCUMENT RELATES TO:)
9 ALL ACTIONS.)
10

11
12 VIDEO DEPOSITION OF FRANK WAGNER
13 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

14 March 7, 2013

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16 Reported by: Anne Torreano, CSR No. 10520

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1 they were forwarded and granted.

2 So we ran the granting process or compiled the
3 list and analysis related to the granting process.

4 Q. Okay. And you mentioned the annual grant
10:32:26 5 cycle. Is that all part of the equity refresh?

6 A. We had -- yes.

7 Q. Okay. What was the competitive analysis that
8 you were doing?

9 A. Related to equity?

10 Q. Related to compensation.

11 A. So my team looks at -- did and continues to
12 look at jobs for Google. We benchmark all jobs, or as
13 many jobs as possible, to the competitive marketplace.
14 We benchmark over 10,000 individual combinations of job
15 families and levels to surveys, and we produce -- we
16 look at obtaining a competitive target based off our
17 compensation philosophy for our salaries, for total
18 cash and also for equity.

19 Q. And is that work connected to developing
20 salary bands for different positions?

21 MR. RUBIN: Objection. Lacks foundation.

22 THE WITNESS: That work is related to
23 developing our market targets, and we have approximate
24 ranges for salaries around that. And those ranges are
10:33:56 25 guideposts or guidelines.

1 But planners, when they make decisions about
2 compensation, could actually go above the top of the
3 band, or when we bring folks in as new hires for
4 various circumstances, they could actually go below the
10:34:13 5 bottom of the band, or the range, if you would, the
6 minimum.

7 BY MS. DERMODY:

8 Q. And what is the process if a planner wants to
9 bring in someone outside the range?

10:34:23 10 A. So you mean we have a job offer for a new
11 candidate or new external candidate?

12 Q. Sure. We'll start with that.

13 A. Generally what we would attempt to do is --
14 and you're speaking of salaries?

10:34:39 15 Q. Yes.

16 A. Right.

17 Well, it's important to recognize that we look
18 at it on a total compensation picture and not just on
19 salaries. So we try to ensure our total compensation
10:34:50 20 package exceeds what that individual has at their prior
21 employer.

22 It is our preference and our guideline that we
23 try, in the mix of compensation, to ensure that
24 salaries come in toward the bottom of the range
10:35:04 25 because -- or our market target, which we refer to as

1 the market reference point. If you don't mind, I'll
2 use the "MRP" terminology because it's fewer words to
3 have to say the acronym.

4 Q. I'm sorry. That's market --

10:35:17 5 A. Reference point.

6 Q. Okay.

7 A. And what we try to do is bring in new
8 candidates or new employees toward the bottom of the
9 range, because we have a pay-for-performance
10 philosophy, and we'd like their salaries to progress
11 and be aligned with their demonstrated performance
12 after the fact as opposed to bringing folks in higher
13 in the range.

14 It is rare that we bring in people high in the
15 range, but we do sometimes, depending on their current
16 rates of salaries at their current employer.

17 Q. Okay. And circling -- I appreciate that
18 description, by the way.

19 Circling back to what happens if someone's
20 going to be slotted outside the range, is there a
21 process for the planner to get approval for that, or
22 does that just happen in the planner's discretion?

23 A. So let me clarify a couple things.

24 So I would distinguish between our annual
10:36:07 25 merit cycle, where planners are actually planning for a

1 team of people and we -- for which we have budgets, and
2 that should be distinguished from new-hire, new-hire
3 rates of pay.

4 So planners or managers have less input,
10:36:25 5 except at the executive level, but they have input, of
6 course, for new-hire offers.

7 Because of our ranges being highly competitive
8 and well above market, it is a rarity that folks would
9 be outside the top of the range.

10:36:40 10 Q. Okay. And then switching to an incumbent
11 employee who a manager might think deserves more pay
12 than the range would allow, what is the process for --
13 for that salary to be approved?

14 MR. RUBIN: Objection. Vague.

10:36:59 15 THE WITNESS: Well, if you mean what happens
16 if someone is highly paid relative to our market
17 target, if they are a stellar performer, then it's
18 likely that a proposed increase would be approved, but
19 it would be their judgment.

10:37:16 20 And then if it was a poor performer, then we
21 may not approve that rate of salary increase.

22 BY MS. DERMODY:

23 Q. And what is the approval process for that
24 position?

10:37:29 25 A. It goes from the compensation team and me up

1 getting into confidential business discussions,
2 designate the transcript under the protective order as
3 highly confidential, attorneys' eyes only.

4 MS. DERMODY: Okay.

10:52:10 5 BY MS. DERMODY:

6 Q. In terms of the periodic reporting, what do
7 you recall being reported about the compensation
8 philosophy of the company?

9 MR. RUBIN: Objection. Vague.

10:52:26 10 THE WITNESS: Do you mean in 2007 or 2008
11 or ...

12 BY MS. DERMODY:

13 Q. Let's start with 2007, sure. And this is what
14 you had described as a periodic report to the LDCC.

10:52:36 15 A. Right.

16 So in 2007 we changed our compensation
17 philosophy to increase our market targeting for our
18 cash compensation.

19 Q. And what did that involve?

10:53:00 20 A. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

24 Q. And was that for all employees at Google?

10:53:18 25 A. Yes.

1 the role for our lead who managed our base pay and
2 bonus planning.

3 Q. And was the information that's collected here
4 under the "Original Matrices" information that you
01:46:18 5 would have collected every year as part of the annual
6 planning?

7 A. You mean would we do a summary like this of
8 each year's merit spend?

9 Q. Yes.

01:46:29 10 A. That's correct, yes, we would.

11 Q. This is just normal comp planning that you and
12 your direct reports did together?

13 A. Yeah, this is a summary of the results of comp
14 planning, so that after -- you know, we -- we released
01:46:45 15 a tool or a software program that managers -- that
16 prepopulated managers' employees our suggested increase
17 algorithm, one that's highly performance oriented and
18 also takes into consideration your absolute pay level.
19 And then managers have the ability or the discretion to
01:47:07 20 change from the suggested numbers as to -- as to what
21 they see fit.

22 And then that information is given back to us,
23 and then we summarize it and review outliers. We look
24 at aggregate spend and those kind of things.

01:47:21 25 Q. Okay. What do you do when you identify

1 [REDACTED]

[REDACTED] ?

3 A. [REDACTED]

[REDACTED]

[REDACTED]

6 [REDACTED]

14 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

01:48:28 20 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

01:48:43 25 Q. Okay. And just so I understand what this

1 [REDACTED]
2 [REDACTED] [REDACTED]
3 [REDACTED]
4 Q. [REDACTED] [REDACTED]
5 [REDACTED] [REDACTED]
6 [REDACTED] ?
7 A. [REDACTED]
8 [REDACTED]
9 [REDACTED] [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED] . [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

02:21:10 15 Q. Okay.

16 (DEPOSITION EXHIBIT 1606 MARKED.)

17 BY MS. DERMODY:

18 Q. All right. The document that's been marked
19 Exhibit 1606 should start with the Bates number 36287.

02:21:43 20 Do you see that?

21 A. I do.

22 Q. And in looking at this document, is this the
23 Compensation Basics that is being described in Exhibit
24 1605 by Ms. Eng as one of the projects that your team
02:22:01 25 was undertaking?

1 forth from our internal communication team to change
2 the language to make it more Googley, have the right
3 internal Google voice.

4 Q. And on page 474902 of this exhibit, you'll see
04:03:32 5 in the middle of the page, "Considerations For Salary
6 Planning."

7 Do you see that?

8 A. Yes.

9 Q. And the first bullet point, "Do your team's
04:03:41 10 increases reflect Google's goal to distribute salaries
11 fairly among employees based on market competitiveness
12 and" --

13 A. I'm sorry. Where are you?

14 Oh, I'm sorry. I missed the first bullet. I
04:03:51 15 was reading the paragraph before. Sorry.

16 Could you start over again?

17 Q. Sure. Just want to make sure you're looking
18 at the same place I'm looking.

19 First bullet point says, "Do your team's
04:04:00 20 increases reflect Google's goal to distribute salaries
21 fairly among employees based on market competitiveness
22 and each individual's performance on the job"?

23 A. Yes.

24 Q. Who was being instructed to use that type of
04:04:15 25 question as a guideline for salary planning?

1 MR. RUBIN: Objection. Lacks foundation.

2 THE WITNESS: So to whom was this aimed at?

3 Is that what you mean?

4 MS. DERMODY: Yes, exactly.

04:04:25 5 THE WITNESS: It would be the people who are
6 planning.

7 BY MS. DERMODY:

8 Q. And what titles would those people have?

9 A. Managers, directors.

04:04:36 10 Q. And would that be across the company?

11 A. Who would receive this instruction?

12 Q. Yes.

13 A. It was the people who were determined to be
14 planning. Not every manager, but yes, it would be --
04:04:47 15 because some level -- some managers have very few
16 employees, but it would be managers and directors
17 across the company.

18 Q. Okay. And that would include people in the
19 technical area as well as sales?

04:04:59 20 A. That's correct, in both technical, sales and
21 G&A.

22 Q. And "G&A" you've used a couple of times. What
23 is -- does that have a longer name that's an acronym
24 for?

04:05:10 25 A. It does. Yes, G&A. It's G ampersand A.

Deposition of Frank Wagner

In Re: HIGH-TECH EMPLOYEE ANTITRUST LITIGATION

1 REPORTER'S CERTIFICATE

2 I, Anne Torreano, Certified Shorthand Reporter
3 licensed in the State of California, License No. 10520,
4 hereby certify that the deponent was by me first duly
5 sworn, and the foregoing testimony was reported by me
6 and was thereafter transcribed with computer aided
7 transcription; that the foregoing is a full, complete,
8 and true record of said proceedings.

9 I further certify that I am not of counsel or
10 attorney for either or any of the parties in the
11 foregoing proceeding and caption named or in any way
12 interested in the outcome of the cause in said caption.

13 The dismantling, unsealing, or unbinding of
14 the original transcript will render the reporter's
15 certificates null and void.

16 In witness whereof, I have subscribed my name
17 this 18th day of March, 2013.

18

19 [] Reading and Signing was requested.

20 [] Reading and Signing was waived.

21 [X] Reading and Signing was not requested.

22

23

24

25

ANNE M. TORREANO, CSR No. 10520

**CORRECTIONS TO DEPOSITION TRANSCRIPT OF
FRANK WAGNER, DATED MARCH 7, 2013**
In re High-Tech Employee Antitrust Litigation
Case No. 11-CV-2509-LHK (N.D. Cal.)

Page:Line	Amendment	Reason for Amendment
17:10	Replace: "Northrup" With: "Northrop"	correction to transcript error
31:16	Delete: "per "	correction to transcript error
38:4	Replace: "programs" With: "program"	correction to transcript error
52:20-21	Replace: "general administrative types of roles. For example, finance, People Operations, communications." With: "General & Administrative types of roles. For example, Finance, People Operations, Communications."	correction to transcript error
56:5	Replace: "topical" With: "type of"	correction to transcript error
60:24	Replace: "end" With: "n"	correction to transcript error
61:1	Replace: "request" With: "requests"	correction to transcript error
69:23	Replace: "time finite" With: "finite time"	correction to transcript error
72:20	Replace: "forms"	correction to transcript error

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Case No. 11-CV-2509-LHK (N.D. Cal.)

Page:Line	Amendment	Reason for Amendment
	With: "forums"	
78:5	Replace: "Art and Art" With: "Art who"	correction to transcript error
83:24	Replace: "was" With: "is"	correction to transcript error
85:18	Replace: "2000" With: "2009"	correction to transcript error
86:12	Replace: "Sun" With: "Sen"	correction to transcript error
89:10	Replace: "Yes." With: "Until 2011."	correction and clarification
93:13	Replace: "finance" With: "Finance"	correction to transcript error
99:16	Replace: "although in 2000 -- this is for 2008" With: "this is for 2008"	correction and clarification
100:11	Insert "multiplier" after 1.62	correction and clarification

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Page:Line	Amendment	Reason for Amendment
102:9	Replace: "And so that individual who had that 15" With: "And so that individual who had the [REDACTED] bonus"	correction to transcript error
108:15-17	Replace: "[REDACTED]" With: "t [REDACTED]"	correction to transcript error
110:21	Replace: "is other location" With: "is the other location"	correction to transcript error
118:16	Replace: "international" With: "internationally"	correction to transcript error
124:1	Replace: "hundred, two hundred" With: "one hundred to two hundred"	correction to transcript error
125:1	Replace: "anybody come" With: "anyone who came"	correction to transcript error
130:21	Delete: "un-- to"	correction to transcript error
139:13	Replace: "the barter compare" With: "the peer comparator"	correction to transcript error
141:3	Replace: "2 RVP"	correction to transcript error

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Case No. 11-CV-2509-LHK (N.D. Cal.)

Page:Line	Amendment	Reason for Amendment
	With: "to our VP"	
146:15	Replace: "provider" With: "target"	correction to transcript error
146:18	Replace: "sales" With: "Sales"	correction to transcript error
146:22	Replace: "Glen" With: "Glen Elliott"	correction and clarification
147:10-11	Replace: "comp international at Google. So those are the people like Barun Sun" With: "Comp International at Google. So those are the people like Barun Sen"	correction to transcript error
148:25	Replace: "fall 2000" With: "fall 2007"	correction to transcript error
166:25	Replace: "trying get to" With: "trying to get to"	correction to transcript error
167:6-7	Replace: "In the same time decrease the number of companies in the pool." With: "At the same time decrease the number of companies in the pool."	correction to transcript error
167:11-12	Replace: I recall we gave equity at [REDACTED] of the competing companies.	correction to transcript error

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Case No. 11-CV-2509-LHK (N.D. Cal.)

Page:Line	Amendment	Reason for Amendment
	With: "I recall we gave equity at [REDACTED] of the competing companies." [add quotations]	
176:19	Replace: "to do" With: "to view"	correction to transcript error
177:13	Delete: "intern -- "	correction to transcript error
186:1-2	Replace: "General and administration functions. So those would be the functions of People Operations, finance, legal" With: "General and Administration functions. So those would be the functions of People Operations, Finance, Legal"	correction to transcript error
187:14	Replace: "2000" With: "2009"	correction to transcript error
197:23	Replace: "cash bonus" With: "cash"	correction and clarification
206:6	Replace: "on Mr. Bock." With: ", only Mr. Bock."	correction and clarification
218:16	Replace: "comp position" With: "composition"	correction to transcript error
222:18	Replace: "effected" With: "effective"	correction to transcript error

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Subject to the above changes, I certify that the transcript is true and correct.


Signature

4/23/13
Date